

REMARKS

Claims 1, 2, 6, 10, 11, 12, 14, 15, 16, 18, 19, 20 and 44 are currently amended. Claims 13, 45 and 46 are canceled. New claims 47 and 48 are added. It is respectfully submitted that the present amendment presents no new matter and places this case in condition for allowance. Reconsideration of the application in view of the above amendments and the following remarks is requested.

I. Interview Summary

Applicants would like to thank the Examiner for the telephonic interview on 23 February 2007. For purposes of a complete response, Applicants summarize the interview as follows:

Applicants' attorney Michael Krenicky discussed the Chandler *et al.* reference (U.S. Patent No. 6,268,222) with the Examiner. Agreement with respect to the claims was not reached.

II. The Rejection of Claims 45 and 46 under 35 U.S.C. 112

Claims 45 and 46 are canceled by this amendment, without prejudice or disclaimer.

III. The Rejection of Claims 1-20 and 44-46 under 35 U.S.C. 102

Claims 1-20 and 44 are rejected under 35 U.S.C. 102(e)(2) as anticipated by Chandler *et al.*, U.S. Patent No. 6,268,222 ("Chandler").

The present invention relates to a method for analyzing a property of a granular composition comprising a purified enzyme by subjecting the granular composition to fluorescence analysis. The method for fluorescence analysis further comprises the step of comparing the amount of emitted light from a granular composition with data from a granular composition of known properties.

Claim 1, as amended, requires, *inter alia*, a first and second granular composition having a core, and a layer of purified enzyme. Similarly, claim 44, as amended, requires, *inter alia*, "providing a calibration model by illuminating a granular composition comprising a purified enzyme layer", and "illuminating an unknown granular composition comprising a purified enzyme layer". In other words, a layer of purified enzyme is disposed upon the core. Nowhere does Chandler describe a granular composition having a core and a layer of purified enzyme disposed thereon. Conversely, Chandler

describes a fluorescent article including a core or carrier particle having on its surface a plurality of smaller polymeric particles or nanoparticles, which are stained with different dyes. While Chandler does mention that the fluorescent article can be used for passive or covalent coupling of biological material, *i.e.*, analyte or analytical reactant, such as enzyme (See for example Col. 12, lines 58-65 and example 5), Chandler does not teach having a core and a layer of purified enzyme disposed thereon. Accordingly, Claims 1 and 44 are not anticipated by Chandler.

For the foregoing reasons, Applicants submit that the claims overcome this rejection under 35 U.S.C. 102. Applicants respectfully request reconsideration and withdrawal of the rejection.

Applicants further add that Chandler does not make the claimed invention obvious. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

As explained, *supra*, Chandler fails to show each and every element of the claimed invention because Chandler does not describe the requisite purified enzyme layer. Accordingly, one of ordinary skill in the art would not be motivated by Chandler to modify the fluorescent article of Chandler to provide a purified enzyme layer disposed on a core. In fact, if one were to modify Chandler (which applicant does not concede is proper), one may be just as likely to arrive at a particle having no enzyme, than the applicants' claimed invention which requires a purified enzyme layer.

III. Conclusion

In view of the above, it is respectfully submitted that all claims are in condition for allowance. Early action to that end is respectfully requested. The Examiner is hereby invited to contact the undersigned by telephone if there are any questions concerning this amendment or application.

Respectfully submitted,

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